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part of
 #33

REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)
 414634

I hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed in patent number 5,894,079, granted April 13, 1999, and for which a reissue patent is sought on the invention entitled FIELD BEAN CULTIVAR NAMED ENOLA.

the specification of which

☐ is attached hereto.

☒ was filed on January 31, 2001 as reissue application number 09 / 773,303
 and was amended on 11 July 2001 and 30 July 2001.
 (If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.

☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.

☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

A reissue patent is sought on the above-referenced patent by reason of the patentee claiming more or less than he had the right to claim in the patent. For example, on July 11, 2001, patentee submitted new claims 16-58, fully supported by the specification and containing matter not previously claimed by the patentee, which the patentee had the right to claim in the patent. Reference is made to new claims added to this patent by this reissue application as evidence of additional material that could have been claimed and is now being claimed. Also, a series of references have been cited in a reexamination request, and the patent owner has additional art to cite, including a prior art bean that was inadvertently not cited during the examination of the above-identified patent. Although the patent owner does not believe that the claims are defective, for reasons stated in the reexamination request, amendment to the claims may also be made for reasons apart from the reissue proceeding as may be required in context of the reexamination.

New claims 16-27 were drawn to a *Phaseolus vulgaris* field bean plant comprising a wood-like stalk and a plurality of wrinkled, dull, ovate-shaped leaves. Patentee had a right to claim said plant; therefore, the omission of such subject matter from the claims represents one error upon which reissue is based.

New claims 38-48 were drawn to a *Phaseolus vulgaris* field bean plant comprising a wood-like stalk, at least one pod, and a plurality of wrinkled, dull, ovate shaped leaves. Patentee had a right to claim such subject matter; thus, its omission from the claims represents a further error upon which reissue is based.

New claims 28-31 were drawn to a *Phaseolus vulgaris* field bean plant having at onset a solid green color pattern, wherein said color is about 5 GY 6/6 in the Munsell Book of Color when viewed in natural light. Patentee had the right to claim the subject matter in new claims 28-31; therefore, the omission of such subject matter from the claims of the above-referenced patent application represents another error upon which reissue is based.

Patentee additionally had the right to claim a pod of a *Phaseolus vulgaris* field bean plant having at maturity a solid tan color pattern, wherein said color is about 5 Y 8.5/6 in the Munsell Book of Color when viewed in natural light. Patentee thus claimed less than he had a right to, which is an error upon which reissue is based. New claims 32-37 present said pod of a *Phaseolus vulgaris* field bean plant.

Patentee also had the right to claim a method of harvesting a *Phaseolus vulgaris* field bean plant. Patentee thus claimed less than he had a right to in U.S. Patent No. 5,894,079, for which reissue is sought to rectify this error. New claims 49 and 50 present said method of harvesting.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22304-1460.

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PTOS&61 (07-00)

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Patentee further had the right to claim a seed of a *Phaseolus vulgaris* field bean plant comprising a seed coat and a hilar ring, wherein said hilar ring is from about 2.5 Y 9/4 to about 2.5 Y 9/6 in the Munsell Book of Color, when viewed under natural light. Patentee thus claimed less than he had a right to in U.S. Patent No. 5,894,079, for which reissue is sought to rectify this error. New claim 53 presents said seed.

Finally, Patentee had the right to claim a *Phaseolus vulgaris* field bean plant and seed thereof, that produces seed having a seed coat that is yellow in color, wherein the yellow color is from about 7.5 Y 8.5/4 to about 7.5 Y 8.5/6 in the Munsell Book of Color when viewed in natural light. Patentee thus claimed less than he had a right to in U.S. Patent No. 5,894,079, for which reissue is sought to rectify this error. New claims 51, 52 and 54-58 present said plant and seed thereof.

Table 1, attached to this declaration, is hereby incorporated in and made part of this declaration, as though fully replicated and set forth herein. Table 1 provides additional detail as to the additional material being claimed.

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[Page 2 of 3]

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)		Docket Number (Optional) 414634	
All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.			
Note: To appoint a power of attorney, use form PTO/SB/81.			
Correspondence Address: Direct all communications about the application to:			
<input checked="" type="checkbox"/> Customer Number:		30955	
OR			
<input type="checkbox"/> Firm or Individual Name			
Address			
Address			
City	State	ZIP	
Country			
Telephone	Fax		
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.			
Full name of sole or first inventor (given name, family name)			
Larry M. Proctor			
Inventor's signature <i>Larry M. Proctor</i>			
Residence Delta, Colorado		Date 6/2/04	
Mailing Address 269 Highway 348, Delta CO 81415		Citizenship United States	
Full name of second joint inventor (given name, family name)			
Inventor's signature		Date	
Residence		Citizenship	
Mailing Address			
Full name of third joint inventor (given name, family name)			
Inventor's signature		Date	
Residence		Citizenship	
Mailing Address			
<input type="checkbox"/> Additional joint inventors or legal representative(s) are named on separately numbered sheets form PTO/SB/02A or 02LR attached hereto.			

[Page 3 of 3]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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